Applicant again respectfully **traverses** these rejections, and incorporates herein by reference the rebuttal arguments presented in Applicant's Amendment Under 37 C.F.R. § 1.111, filed on September 21, 2004, and now **additionally** explicitly addresses the Examiner's **Response to Arguments** appearing on pages 15 and 16 of the **final** Office Action.

Applicant's basic arguments are that Vilander '748 does not disclose, either expressly or inherently, each limitation of the rejected claims 1-3, 7-9 and 12-14, thereby rendering Vilander '748 **incapable** of anticipating these claims, i.e., incapable of being readable on these claims, and that, because of the same deficiency in Vilander's disclosure, the other rejections under 35 U.S.C. § 103(a) fail to render *prima facie* obvious the subject matter of the remaining claims whose rejections rely on the deficient disclosure of Vilander '748, whereby the Examiner's proposed modifications of Vilander with the disclosures of the secondary references Iizuka '880 and Mitra (EP '726) also are **incapable** of rendering *prima facie* obvious the subject matter of these other claims, since the Examiner's proposed modifications/combinations do not teach, suggest or produce the subject matter of each of these remaining claims.

As noted above, the problem here appears to be the Examiner's apparent misinterpretation of Vilander's disclosure and/or of the invention defined in each of Applicant's pending claims, especially the independent claims 1, 7 and 12.

More specifically, Applicant has again studied the passages of Vilander which the Examiner cites, and finds, without exception, that each of these passages says the **same** thing, which is that a shared channel is to be used as long as the relevant parameter (data rate, queue length, etc.) is less than a threshold, and using a dedicated channel when the relevant parameter

exceeds a certain threshold. Or, conversely, but which amounts to the same thing, that a dedicated channel is used when the relevant parameter exceeds a certain threshold, and is switched to a shared channel when the relevant parameter is less than a certain threshold.

In the passage of Vilander at pages 16, line 4 through page 17, line 9, and especially page 16, lines 11-24, the only modification is that there is a dead space in between two thresholds, where no switching occurs, i.e., a lower threshold below which a shared channel shall be used, and an upper threshold above which a dedicated channel shall be used, and when the relevant parameter is between the two thresholds, no switching occurs (this is called hysteresis in Vilander). This does not change the fundamental teaching of Vilander, which is in any case the **opposite of the claimed invention**.

In **contrast**, Applicant claims the use of dedicated resources allocated to each terminal **unless** a relevant parameter **exceeds a threshold** (to use the language of Vilander), in which case **shared resources may be used**.

Applicant summarizes in the following table the differences between Vilander's teaching and Applicant's independent claims 1, 7 and 12.

	Resources	When
Vilander	dedicated	Parameter exceeds threshold
Vilander	shared	Parameter is less than threshold
Applicant	dedicated	Sufficient, i.e. parameter does not exceed threshold
Applicant	shared	Insufficient, i.e. parameter exceeds threshold

In summary, then, Applicant must respectfully submit that the Examiner has apparently **misinterpreted** Applicant's claimed invention or Vilander's disclosure, or both, in view of the Examiner's insistence that the teachings of Vilander and the claimed invention are **not opposite**, as it appears quite clear to Applicant that they **are opposite**, thereby invalidating the Examiner's rejections based on anticipation and unpatentability (obviousness).

Applicant does not understand the following sentence appearing on page 6 of the final Office Action:

> Therefore, **claims 4-6, 10, 15 and 16** are still rejected because they depend on and include all the limitations of base **claims 1, 7, and 12**.

In any event, and as again explained in great detail above, it is Applicant's contention (1) that the rejection under 35 U.S.C. § 102(b) should be withdrawn since the rejected claims are not readable, either expressly or inherently, on Vilander's disclosure, and (2) that this same deficiency in Vilander's disclosure also shows that the rejections under 35 U.S.C. § 103(a) are not supported by a *prima facie* case of obviousness as the secondary references cited by the Examiner do not compensate for the above-explained deficiency in the disclosure of Vilander, the primary reference.

REQUEST FOR INTERVIEW

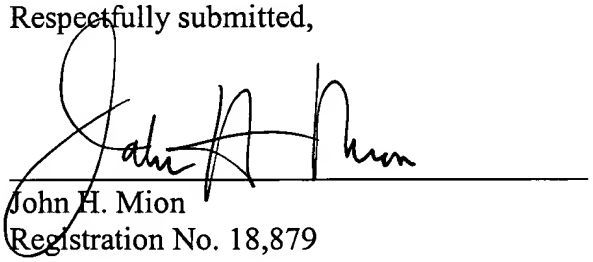
Therefore, if the Examiner still feels that the application is not now in condition for allowance with all of claims 1-16, Applicant respectfully requests the Examiner to **call the undersigned attorney** to discuss the matter, particularly the Examiner's interpretation of Vilander's disclosure. In this regard, Applicant believes it should **not** be necessary to **appeal** this

case, and would like the opportunity to discuss the divergence in views of the teaching of Vilander, and whether any claim amendments would **avoid an appeal**.

Applicant files concurrently herewith a Petition (with fee) for an Extension of Time of Three Months. Applicant hereby petitions for any extension of time which may be required to maintain the pendency of this application, and any required fee for such extension is to be charged to Deposit Account No. 19-4880. The Commissioner is also authorized to charge any additional fees under 37 C.F.R. § 1.16 and/or § 1.17 necessary to keep this application pending in the Patent and Trademark Office or credit any overpayment to said Deposit Account No. 19-4880.

On August 10, Applicant will file a Notice of Appeal to maintain the application in a pending status until the Examiner has had an opportunity to consider this Request for Reconsideration.

Respectfully submitted,



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